

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In the Matter of

Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations
(Littlefield, Arizona, et al.)

Docket No. 99-282

RM-9710

To: The Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

OPPOSITION TO PETITION FOR RECONSIDERATION

Death Valley Broadcasters ("Death Valley"), by counsel, pursuant to 47 CFR § 1.106(g), hereby submits its *Opposition to Petition for Reconsideration* in response to the Petition for Reconsideration ("Petition") filed by Mountain West Broadcasting ("Mountain West") on June 1, 2000. In support thereof, Death Valley states as follows:

I. INTRODUCTION

1. On June 1, 2000, Mountain West filed its Petition in the above-referenced matter. The Petition seeks reconsideration of the decision of the Allocations Branch in Report & Order, DA 00-831, 2000 FCC LEXIS 1987 (April 14, 2000) ("Report & Order"). The Report & Order denied a previous petition for rulemaking filed by Mountain West proposing the allotment of Channel 265C to

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Littlefield, Arizona. The Report & Order, held that Littlefield, Arizona did not qualify as a community for allotment purposes.

II. ARUGMENT

A. Mountain West Has Failed to Demonstrate That Littlefield Qualifies as a Community for Allotment Purposes

2. Littlefield, Arizona does not qualify as a community for purposes of amending the FM table of allotments and nothing contained in the Petition suggests otherwise. The Petition is essentially a rehash of arguments already made by Mountain West in this proceeding. Therefore, the Petition presents no valid basis for reconsideration.

3. Littlefield is not an incorporated community. Nor is Littlefield listed by the U.S. Census Bureau. According to the U.S. Census Bureau, the population of the entire zip code area containing Littlefield is only 87 persons.

4. In view of the lack of factors at Littlefield that would indicate a valid community for allotment purposes, Mountain West was asked in the Notice of Proposed Rulemaking, 14 FCC Rcd 15332 (1999) ("NPRM"), herein, to provide information relevant to Littlefield's status as a community. Mountain West did not go to the community and obtain statements or other relevant information from the local citizens. Instead, Mountain West merely attached a sheaf of computer printouts from the Internet purporting to show Littlefield to be a valid community for purposes of the table of allotments.

5. All of the "local" businesses referenced in the Petition were culled by a single Internet search engine (switchboard.com) designed to display as many businesses as possible. It is only by displaying successful search hits that

the user is presented with hyperlinks to other potential revenue producing features at that site. The methodology employed by this search engine is, therefore, suspect when compared with official sites such as the U.S. Census Bureau. In fact, the search engine results show as many as eighteen of the 36 hits with no street address at all, in Littlefield or elsewhere. It is impossible to say that such items are representative of the community of Littlefield.

6. Several of the purported businesses proffered by Mountain West are actually identified with communities outside of Littlefield. For example, Mesquite Plumbing is identified in its name with the larger and more dominant community of Mesquite, Nevada. There are also several entities that identify with Beaver Dam, rather than with Littlefield, such as the Beaver Dam Resort, Beaver Dam Service Station and the Beaverly Hills Salon. Similarly, the Mohave County Environmental, Mohave County Planning-Zoning and Mohave County Public Works have no specific identification with the Littlefield community, and like many of the search engine results, these entities have no street address in Littlefield. Contrary to Mountain West's suggestion, these latter entities are not "Governmental Services"¹ indicative of any governmental function of Littlefield. There is no local governing body in Littlefield. In the end, despite the flurry of computer pages attached to the Petition, we are left with the same fire department, school and post office that were claimed by Mountain West in its original petition, and rejected in the Report & Order.

7. A better indication of whether Littlefield possesses its own cultural and civic life can be seen by actually going to the Internet site proffered by

Mountain West and clicking on the “What’s Nearby” hyperlink for any one of the purported Littlefield entries. This hyperlink presents the user with several categories of community activities: Eateries, Shopping, Entertainment, Travel and Recreation. However, these establishments are nearly all located in the communities of Mesquite and St. George, Utah. For example, in the case of Chief Sleep Easy, clicking on “What’s Nearby” brings up a page of local attractions.² Clicking on “Grocers” generates a list of grocers, none of which are in Littlefield.³ Going back to the page of local attractions and clicking on “City” in the “Governmental Offices” section of the “Information about Littlefield, AZ” category, brings up a page of governmental listings, none of which refer to Littlefield.⁴ Clearly, the citizens of this desert area look to Mesquite, St. George and other surrounding towns for the basic elements of community life.

8. As for the lists of unidentified people, none of these individuals are referenced with actual street addresses. It is wholly unknown how these lists were generated. However, by clicking on a given person’s hyperlink, a page is displayed inviting the user to explore that individual’s “neighborhood.”⁵ Clicking on any one of these exploration links returns a list of commercial, cultural and civic opportunities associated with surrounding communities, not Littlefield. For example, clicking on “Restaurants” brings up a list of establishments in Peach Springs, Meadow View, Bunkerville and Mesquite.⁶

¹ Petition, p. 3.

² Exhibit 1, p. 1.

³ *Id.*, p. 2.

⁴ *Id.*, p. 3.

⁵ Exhibit 2, p. 1.

⁶ Exhibit 2, p. 2.

9. In sum, Mountain West has not proffered the actual views and opinions of the people named by the search engine with respect to Littlefield. The businesses, for the most part, are either identified with other communities or have no street address at all. Therefore, Mountain West has failed in its attempt to establish that Littlefield is a community for allotment purposes.

B. The Commission Precedent Requires a Finding That Littlefield is Not a Community for Allotment Purposes

10. In the Report & Order,⁷ the Commission cited a number of cases involving rejected attempts by Mountain West to allot new FM facilities to communities that did not qualify as such under the Commission's rules. None of these cases are distinguished in the Mountain West Petition.

11. In Amazonia, Missouri, 14 FCC Rcd 16060 (1999), the Commission rejected a Mountain West proposal involving a community with a population of only 257 persons. This is over double the size of Littlefield. Similarly, in Pleasant Dale, Nebraska, 14 FCC Rcd 18893 (1999), the Commission failed to find a community for allotment purposes for a location possessing 253 persons. Unlike the present case, the Pleasant Dale community had a mayor and a town council in addition to the asserted post office and zip code. Here, there is no governing political entity of any kind.

12. The essential factor in these cases is the nexus between the political, social and commercial organizations and the community in question. See Gretna, Marianna, Quincy and Tallahassee, Florida, 6 FCC Rcd 633 (1991). A mere list of unidentified entities and names is not enough to show an actual

⁷ Report & Order, p. 2, ¶ 5.

nexus. In Kanarrville, Utah, 14 FCC Rcd 15962 (1999), the Commission dismissed a Mountain West proposal involving a community of 228 persons (well over twice the size of Littlefield) for not providing sufficient documentary evidence in support of its proposal. Most significantly, Mountain West failed to supply affidavits from local residents, or any other evidence to the effect that rural residents viewed that community as a center for shopping and medical services. In the present case, Mountain West's own Internet research shows Mesquite and St. George to be the real civic centers in the area.

13. Mountain West's citation to Homerville, Lakeland and Statenville, Georgia, 6 FCC Rcd 5802 (1991) is inapposite. In Homerville, the community in question (population 650) was, in fact, the county seat as well as being the location of the County Board of Commissioners. Nor can Mountain West rely on Cal-Nev-Ari, Boulder City and Los Vegas, Nevada, 14 FCC Rcd 17153 (1999). Cal-Nev-Ari, with 350 people, had more than triple the population of Littlefield. Furthermore, the petitioner there proffered a detailed case study complete with interviews and other evidence of extensive civic involvement by members of the community. Nothing like that has been shown here.

14. Arnold and Columbia, 7 FCC Rcd 6303 (1992), relied on by Mountain West involved a community of 1,799 persons that was also listed as a census designated place. Here we have 87 people and no recognition by the U.S. Census Bureau. Likewise, in Kenansville, Florida, 5 FCC Rcd 2663 (1990), the population of 700 was over 7 times the size of Littlefield.

15. In sum, Mountain West has failed to demonstrate in its Petition that Littlefield, Arizona is a community for allotment purposes. The cases cited by Mountain West are inapposite, especially when compared with the plethora of cases directly on point involving Mountain West itself. As in Amazonia, Pleasant Dale and Kanarraville, Mountain West has not shown the instant community to be a community for allotment purposes. Consequently, the Mountain West proposal in the present case cannot be accepted by the Commission.

C. The Short-Spacing to KONY-FM

16. It is agreed all around that the Mountain West proposal is short-spaced to the one-step upgrade of KONY-FM on Channel 266C at Kanab, Utah. That authorization was granted by the Commission over a year ago on June 11, 1999.⁸ Mountain West would have the Commission overturn that authorization based on its deficient Littlefield showing. Mountain West further suggests that KONY-FM now be handed Channel 267C without a rulemaking on the issue or offer to reimburse KONY-FM for its channel change. Mountain West did not even serve KONY-FM with its proposal. Consequently, this new proposal cannot be taken seriously.

17. As the Commission recognized in the Report & Order, Mountain West has not proffered a showing sufficient to overturn KONY-FM's authorization. Nothing contained in the Mountain West Petition is enough to demonstrate otherwise. Therefore, the Commission is required to continue to uphold KONY-FM's authorization and dismiss the Mountain West proposal.

⁸ See Broadcast Actions, Report No. 44509, June 16, 1999.

III. CONCLUSION

18. Mountain West has not shown Littlefield to be a qualified community for allotment purposes. A vacuous computer presentation, without any showing of the actual cultural and civic life of the community falls far short of the necessary showing, particularly in the case of a desert community of only 87 persons. The cases cited by Mountain West are inapposite and are not sufficient to counter the numerous cases rejecting similar Mountain West proposals to allocate FM stations to what amount to ghost towns.

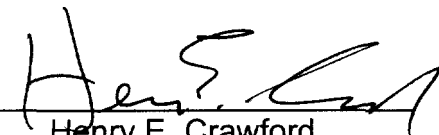
WHEREFORE, it is respectfully submitted that the Petition for Reconsideration submitted in this case by Mountain West Broadcasting be denied in its entirety.

June 14, 2000

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1990 M Street, N.W.
Suite 510
Washington, D.C. 20036-4192
(202) 785-2800
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Web: <http://www.HenryCrawfordLaw.com>

Respectfully Submitted,

Death Valley Broadcasters

By: 
Henry E. Crawford
Its Attorney

Death Valley Broadcasters
Opposition to Petition for Reconsideration
June 14, 2000

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 Highway 91 & Mcknight
 Littlefield, AZ 86432

(520)347-5250

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Places near Chief Sleep Easy address

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Restaurants, Pizza, Coffee Shops, Bagels, Donuts

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Theatres, Movies, Video Rentals, Tickets, Comedy Clubs

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Hotels, Airports, Car Rentals, Gas Stations, Taxicabs

Recreation

Parks, Museums, Health Clubs, Golf Courses

Health

Hospitals, Doctors, Dentists, Pharmacies

Other categories

All nearby businesses

Local Maps

Map of Chief Sleep Easy
 Directions to Chief Sleep Easy
 Map of Littlefield
 Map of Arizona
 Other locations

Information about Littlefield, AZ

Local Guides

Phoenix City Guide

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City, State, Post Office
 Web sites about Littlefield, AZ
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Lookup People in Littlefield, AZ

First Name: Last Name:



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Colorado City, AZ 86021

Phone: (520)875-2021 [Call Now](#)

Distance: 35.44 mi.

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Meadview Market

110 E Meadview Blvd

Meadview, AZ 86444

Phone: (520)564-2290 [Call Now](#)

Distance: 39.42 mi.

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Minute Market

290 N Sandhill Blvd

Mesquite, NV 89027-4725

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Mesquite, NV 89027-4727

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312 W Mesquite Blvd # 118-119

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473 W Mesquite Blvd

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St George, UT 84770-7100


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Albertson's

835 S Bluff St
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1189 E 700 S
St George, UT 84790-4022

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Bunkerville, NV 89007 Phone: (702)346-5572 **Call Now** Distance: 40.88 mi.

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Mesquite Building Dept

51 E 1st South St, Mesquite, NV 89027-6309 Phone: (702)346-2835 **Call Now** Distance: 41.17 mi.

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Mesquite Ambulance Office

10 E Mesquite Blvd, Mesquite, NV 89027-4706 Phone: (702)346-5231 **Call Now** Distance: 41.27 mi.

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Mesquite Animal Control

Mesquite, NV 89027-4706 Phone: (702)346-5268 **Call Now** Distance: 41.50 mi.

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Mesquite Finance Director

10 E Mesquite Blvd, Mesquite, NV 89027-4706 Phone: (702)346-5295 **Call Now** Distance: 41.50 mi.

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St George Sewer Plant

3780 S 1550 W, St George, UT 84790-7786 Phone: (435)634-5849 **Call Now** Distance: 46.44 mi.

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Tonaquint Nature Ctr

1851 S Dixie Dr, St George, UT 84770-7786 Phone: (435)634-5948 **Call Now** Distance: 48.36 mi.

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St George Leisure Svc Adm

86 S Main St, St George, UT 84770-3452 Phone: (435)634-5850 **Call Now** Distance: 50.58 mi.

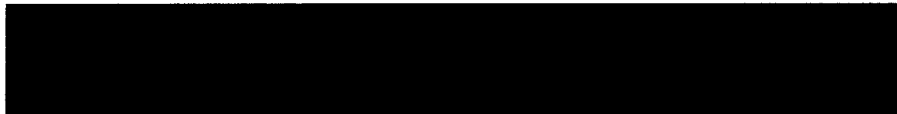
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St George City Cemetery

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 Smith, John L BORN: 08-02-54 1187 Opal St, Grand Junction, CO 81505 **Locaterra.com**
 Smith, John F BORN: 09-17-54 3002 North Paleman, Knoxville, TN 37918 **CLICK HERE**

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Grand Canyon Caverns Inn

Old Route 66 Mile Marker 115, Peach Springs, AZ 86434

Phone: (520)422-3223 **Call Now** **Distance:** 40.43 mi.

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Ken's Pizza Plus

28950 N Pierce Ferry Rd, Meadview, AZ 86444 Phone: (520)564-2525 **Call Now**

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Oar House Restaurant & Lounge

28940 N Pierce Ferry Rd, Meadview, AZ 86444 Phone: (520)564-2222 **Call Now**

Distance: 40.59 mi.

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Los Lupes Restaurant

PO Box 7294, Bunkerville, NV 89007-0294 Phone: (702)346-5280 **Call Now**

Distance: 40.87 mi.

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Chalet Cafe

170 E Mesquite Blvd, Mesquite, NV 89027-4708 Phone: (702)346-5269 **Call Now**

Distance: 41.16 mi.

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Golden West Gambling Hall

91 E Mesquite Blvd, Mesquite, NV 89027-4782 Phone: (702)346-7500 **Call Now**

Distance: 41.21 mi.

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Panda Garden Chinese Rstrnt

10 Mesquite Blvd, Mesquite, NV 89027-4782 Phone: (702)346-3028 **Call Now**

Distance: 41.28 mi.



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KFC

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CERTIFICATE OF SERVICE

I, Henry E. Crawford, do hereby certify that copies of the foregoing
Opposition to Petition for Reconsideration have been served by United States
mail, postage prepaid this 14th day of June, 2000 upon the following:

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Henry E. Crawford